

PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

APR - 9 2020

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
YOUNGSTOWN

|                                                                                                         |  |                                                                                                                                              |
|---------------------------------------------------------------------------------------------------------|--|----------------------------------------------------------------------------------------------------------------------------------------------|
| United States District Court                                                                            |  | District: <u>Northern District of Ohio</u>                                                                                                   |
| Name (under which you were convicted):<br><u>Jamarr King ex rel. JAMARR KING</u>                        |  | Docket or Case No.:                                                                                                                          |
| Place of Confinement:<br><u>Trumbull Correctional Camp</u>                                              |  | Prisoner No.:<br><u>A754-017</u>                                                                                                             |
| Petitioner (include the name under which you were convicted):<br><u>Jamarr King ex rel. JAMARR KING</u> |  | Respondent (authorized person having custody of petitioner):<br><u>LaShann Eppinger and Ohio Department of Rehabilitation and Correction</u> |
| The Attorney General of the State of: <u>David Yost</u>                                                 |  |                                                                                                                                              |

## PETITION

1. (a) Name and location of court that entered the judgment of conviction you are challenging:

Court of common pleas Summit County, OHIO.

- (b) Criminal docket or case number (if you know):

CR-2016-11-375B

2. (a) Date of the judgment of conviction (if you know):

- (b) Date of sentencing:

10-19-2018

3. Length of sentence:

Three year non mandatory sentence

4. In this case, were you convicted on more than one count or of more than one crime? ☒ Yes ☐ No

5. Identify all crimes of which you were convicted and sentenced in this case:

One count of Felony-3 Drug Trafficking, Six counts of Felony-4 Drug Trafficking, One count of Felony-5 Drug Trafficking.

6. (a) What was your plea? (Check one)

☐ (1) Not guilty

☐ (3) Nolo contendere (no contest)

☒ (2) Guilty

☐ (4) Insanity plea

(b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?

I was rushed and pressured into pleading guilty to 8 counts of Felony Drug Trafficking

(c) If you went to trial, what kind of trial did you have? (Check one)

☐ Jury ☐ Judge only

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

☒ Yes ☐ No

8. Did you appeal from the judgment of conviction?

☒ Yes ☐ No

9. If you did appeal, answer the following:

(a) Name of court: NINTH APPELLATE DISTRICT

(b) Docket or case number (if you know): CA-29247

(c) Result: Judgment affirmed.

(d) Date of result (if you know):

(e) Citation to the case (if you know):

(f) Grounds raised: The Courts did not let me withdraw my guilty plea before sentencing. I did not understand what I was doing by venturing into the plea. I wanted to cancel or void the contract out but I was force to go on with it.

(g) Did you seek further review by a higher state court? ☒ Yes ☐ No

If yes, answer the following:

(1) Name of court: The Supreme Court of Ohio

(2) Docket or case number (if you know): 2019-1277

(3) Result: Upon consideration of the jurisdictional memoranda filed in this case, the court declines to accept jurisdiction of the appeal.

AO 241 (Rev. 09/17)

(4) Date of result (if you know):

10-29-19

(5) Citation to the case (if you know):

Maureen O'Connor

(6) Grounds raised:

Knowingly, intelligently and voluntarily  
make the plea. Question of competency. Did not receive  
Fundamental rights of Effective Counsel.  
Withdraw the plea.

(h) Did you file a petition for certiorari in the United States Supreme Court?

☐ Yes☒ No

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result:

(3) Date of result (if you know):

(4) Citation to the case (if you know):

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

☒ Yes☐ No

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court:

Court of Common Pleas Summit County

(2) Docket or case number (if you know):

CR-2016-11-3758

(3) Date of filing (if you know):

July 8 2019

(4) Nature of the proceeding:

~~Appeal~~ Petition to vacate or Arise Judgment of conviction

(5) Grounds raised:

Denied constitutional right to  
trial by jury. Fed. USCS Const. Amendment 7.  
Deprived of effective assistance of trial  
counsel. Fed. Const. USCS Amendment 6.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result:

Nothing happen No ruling.  
Time expired for the trial to  
make a decision

(8) Date of result (if you know):

N/A

(b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court:

Court of Appeals Ninth District Summit County

(2) Docket or case number (if you know):

CA-29247

(3) Date of filing (if you know):

Nov. 2019

(4) Nature of the proceeding:

Appellants Application for Reopening

(5) Grounds raised:

I was not properly represented by Effective Trial Counsel. Plain Error  
 Dimairo family were allowed to present victim  
 impact statements. I didn't make the plea  
 knowingly, intelligently and voluntarily.  
 Withdraw my plea, I was innocent of  
 all charges.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes☒ No

(7) Result:

Appellant application to reopen is denied

(8) Date of result (if you know):

12-13-19

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court:

(2) Docket or case number (if you know):

(3) Date of filing (if you know):

(4) Nature of the proceeding:

(5) Grounds raised:

(6) Did you receive a hearing where evidence was given on your petition, application, or motion?

☐ Yes ☐ No

(7) Result: \_\_\_\_\_

(8) Date of result (if you know): \_\_\_\_\_

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: ☒ Yes ☐ No

(2) Second petition: ☐ Yes ☐ No

(3) Third petition: ☐ Yes ☐ No

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**CAUTION:** To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

**GROUND ONE:** 18 USCS 241. Conspiracy against rights. Denied Fed. USCS Constitution Amendment 7 right to trial by Jury. Deprived Amend 5 of due process right.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

The trial court abused its discretion by not allowing me to withdraw my guilty plea before sentencing. I wanted to cancel or void contract/plea out because I don't agree with its terms. I did not make the plea knowingly, intelligently, and voluntarily. I was deceived by my trial counsel. He asked me if I can get you "probation" will you take it and I answer "yes." I have the record to prove it.

(b) If you did not exhaust your state remedies on Ground One, explain why:



(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue? ☒ Yes ☐ No

(2) If you did not raise this issue in your direct appeal, explain why: \_\_\_\_\_

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☒ Yes ☐ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: petition to vacate or set aside judgement of conviction

Name and location of the court where the motion or petition was filed: In The COURT OF COMMON PLEAS SUMMIT COUNTY, OHIO

Docket or case number (if you know): CR-2016-11-3758

Date of the court's decision: N/a

Result (attach a copy of the court's opinion or order, if available): They never ruled on it.

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☒ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: IN The COURT OF APPEALS NINTH JUDICIAL DISTRICT

Docket or case number (if you know): 29247

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): Okay No results

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

There was no results to my petition to appeal. The Courts had plenty of time to make there decision.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One:

Application to reopen appeal.

**GROUND TWO:**

Fed. Const. USCS Amendment 6 Rights of the accused. I was deprived of effective assistance of trial counsel.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I'm actually innocent of all charges. The state/court didn't have any real evidence against me. Trial counsel was only interested in getting me a plea deal. I wanted to go to trial but he said "it was in my best interest to take plea deal" and "you would only get probation". Another thing counsel ignored in plain error was he allowed the DiMaio family to present a "victim impact statement" when I got sentence despite there was no "victim" on the charges I was getting convicted of. Trial counsel was totally remiss in objecting to an action that would unquestionably be prejudicial to my sentence.

(b) If you did not exhaust your state remedies on Ground Two, explain why:

(c) **Direct Appeal of Ground Two:**

(1) If you appealed from the judgment of conviction, did you raise this issue?



Yes



No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?



Yes



No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Petition to vacate or set aside Judgment of conviction or sentence.

Name and location of the court where the motion or petition was filed:

IN THE COURT OF COMMON PLEAS SUMMIT COUNTY, OHIO

Docket or case number (if you know): CR-2016-11-3758

Date of the court's decision: N/a

Result (attach a copy of the court's opinion or order, if available): No result.

(3) Did you receive a hearing on your motion or petition?

☐ Yes ☒ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes ☒ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes ☒ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

There was no result to my ~~no~~ petition. The courts had plenty of time to make there decision.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you

have used to exhaust your state remedies on Ground Two:

Application to reopen appeal.

**GROUND THREE:**

18 USCS 242. Deprivation of Rights under color of law.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Trial Counsel told me and my mother that only reason the Court/State was pushing the charges on me because I am of African descent. His actual words was because "your Black" or "African American", and the girl who was involved in the allegations was "young and white". So this mean the only reason the state/courts convicted me is because of my skin color which is Unlawful. Discrimination of "National Origin". I am not "Black".



(b) If you did not exhaust your state remedies on Ground Three, explain why:

I just found out about this ground I am rising now. The Federal courts can help me better.

(c) **Direct Appeal of Ground Three:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

I believe the Federal Courts won't be bias towards me.

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes

☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: \_\_\_\_\_

Name and location of the court where the motion or petition was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: \_\_\_\_\_

Docket or case number (if you know): \_\_\_\_\_

Date of the court's decision: \_\_\_\_\_

Result (attach a copy of the court's opinion or order, if available): \_\_\_\_\_

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three:

**GROUND FOUR:**

Trial Court lacks subject matter jurisdiction.  
Sovereign Immunity.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I am a living person I do not give anyone permission or  
consent to have "Subject Matter Jurisdiction" over me.  
I am under "GOD's Law" or as the same "Maxims of Law."  
I am sovereign and a natural living person of "GOD."

(b) If you did not exhaust your state remedies on Ground Four, explain why:

Trial Courts / State  
Court don't have subject matter jurisdiction over  
me.

(c) **Direct Appeal of Ground Four:**

(1) If you appealed from the judgment of conviction, did you raise this issue?

☐ Yes

☒ No

(2) If you did not raise this issue in your direct appeal, explain why:

(d) **Post-Conviction Proceedings:**

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

☐ Yes ☒ No

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition:

Name and location of the court where the motion or petition was filed:

N/a

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(3) Did you receive a hearing on your motion or petition?

☐ Yes

☐ No

(4) Did you appeal from the denial of your motion or petition?

☐ Yes

☐ No

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

☐ Yes

☐ No

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed:

Docket or case number (if you know):

Date of the court's decision:

Result (attach a copy of the court's opinion or order, if available):

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue:

Trial Courts/ State courts don't have  
subject matter jurisdiction over me.

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four:

13. Please answer these additional questions about the petition you are filing:

- (a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? ☐ Yes ☐ No

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them:

- (b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them:

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? ☐ Yes ☒ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available.

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? ☐ Yes ☐ No

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised.

IN THE COURT OF COMMON PLEAS SUMMIT  
COUNTY, OHIO. CR-2016-11-3758, Petition  
to vacate or set aside judgement of conviction  
or sentence.

I want to fix all representation  
on my cases. *James King*

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing:

David Lombardi

(b) At arraignment and plea:

Daniel Bache and Noah Munyer

(c) At trial:

(d) At sentencing:

~~David~~ Noah Munyer

(e) On appeal:

Neil P. Agarwal

(f) In any post-conviction proceeding:

Pro Se

(g) On appeal from any ruling against you in a post-conviction proceeding:

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? ☐ Yes ☒ No

(a) If so, give name and location of court that imposed the other sentence you will serve in the future:

(b) Give the date the other sentence was imposed:

(c) Give the length of the other sentence:

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? ☐ Yes ☐ No

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.\*



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\* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of -
  - (A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;
  - (B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;
  - (C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
  - (D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

- (2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

Therefore, petitioner asks that the Court grant the following relief: Immediate release from prison, vacate sentence and dismiss the criminal case against me. Emergency release from or any other relief to which petitioner may be entitled. Prison due to COVID-19 pandemic.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on 4-2-2020 (month, date, year).

Executed (signed) on 4-1-2020 (date).

By Executor: 

Signature of Petitioner

If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_